

AMENDED IN SENATE JULY 2, 2008

AMENDED IN SENATE MAY 29, 2008

AMENDED IN SENATE JUNE 14, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1333**

**Introduced by Assembly Member Hancock**

*(Principal coauthor: Senator Corbett)*

**(Coauthor: Assembly Member Levine)**

February 23, 2007

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An act to add Section 2924.9 to the Civil Code, and to amend, *repeal, and add* Section 12811.1 of the Public Utilities Code, relating to utility charges.

LEGISLATIVE COUNSEL'S DIGEST

AB 1333, as amended, Hancock. Payment of utility charges.

Existing law regulates the process of foreclosing on real property subject to a mortgage or deed of trust.

This bill would require a ~~trustee, mortgagee, or beneficiary that acquires legal owner of~~ real property ~~by judicial or nonjudicial foreclosure~~; to pay a utility service provider for a utility service provided to the property or its tenants following ~~the~~ a foreclosure where ~~the legal owner acquires the property by judicial or nonjudicial sale or purchases the property at a foreclosure sale~~, the property is residential rental property, and the tenant or tenants pay the landlord for a utility service and are not direct customers of the utility service provider. The bill would require a ~~trustee, mortgagee, or beneficiary that~~ collects utility charges from a tenant for utility service while foreclosure proceedings are pending, pursuant to an assignment of rents provision in a mortgage

agreement, to pay the utility service provider for the utility services for which charges were collected from the tenant.

The existing Municipal Utility District Act authorizes the formation of a municipal utility district. The act authorizes a district to acquire, construct, own, operate, control, or use works for supplying the inhabitants of the district and public agencies with light, water, power, heat, transportation, telephone service, or other means of communication, or means for the collection, treatment, or disposition of garbage, sewage, or refuse matter. The act provides that accounts of a municipal utility district that are delinquent become a lien on the property to which services were rendered, with the force, effect, and priority of a judgment lien, when a certificate to this effect is filed for recordation with the county recorder, but exempts from that provision delinquent fees or charges for the furnishing of water or sewer service to residential property or electrical service.

This bill would delete the exemption for delinquent fees or charges for the furnishing of water or sewer service to residential property. *The bill would require a district that places a lien on a property for water or sewer service to submit to the Assembly and Senate Committees on Judiciary, on or before January 1, 2013, a report containing specified information regarding the liens. The bill would repeal these provisions on January 1, 2014.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 2924.9 is added to the Civil Code, to  
2     read:  
3     ~~2924.9. If a trustee, mortgagee, or beneficiary acquires real~~  
4     ~~property by judicial or nonjudicial foreclosure, where the property~~  
5     ~~is residential rental property and the tenant or tenants pay the~~  
6     ~~landlord for a utility service and are not direct customers of the~~  
7     ~~utility service provider, the trustee, mortgagee, or beneficiary shall~~  
8     ~~pay the utility service provider for the utility service provided to~~  
9     ~~the property or its tenants following the foreclosure. A trustee,~~  
10    ~~mortgagee, or beneficiary that collects utility charges from a tenant~~  
11    ~~for utility service while foreclosure proceedings are pending,~~  
12    ~~pursuant to an assignment of rents provision in a mortgage~~

1 ~~agreement, shall pay the utility service provider for the utility~~  
2 ~~services for which charges were collected from the tenant.~~

3 2924.9. (a) *A legal owner of real property shall pay the utility*  
4 *service provider for the utility service provided to a property or*  
5 *its tenants following a foreclosure if all of the following are true:*

6 (1) *The legal owner acquires the real property by judicial or*  
7 *nonjudicial foreclosure or purchases the real property at a*  
8 *foreclosure sale.*

9 (2) *The property is residential rental property.*

10 (3) *The tenant or tenants pay the landlord for a utility service*  
11 *and are not direct customers of the utility service provider.*

12 (b) *A mortgagee or beneficiary that collects utility charges from*  
13 *a tenant for utility service while foreclosure proceedings are*  
14 *pending, pursuant to an assignment of rents provision in a*  
15 *mortgage agreement, shall pay the utility service provider for the*  
16 *utility services for which charges were collected from the tenant.*

17 SEC. 2. Section 12811.1 of the Public Utilities Code is  
18 amended to read:

19 12811.1. (a) A district may, by resolution or ordinance, require  
20 the owner of record of real property within the district to pay the  
21 fees, tolls, rates, rentals, or other charges for services rendered to  
22 a lessee, tenant, or subtenant, and those fees, tolls, rates, rentals,  
23 and other charges that have become delinquent, together with  
24 interest and penalties thereon, are a lien on the property when a  
25 certificate is filed in the office of the county recorder pursuant to  
26 subdivision (b) and the lien has the force, effect, and priority of a  
27 judgment lien. No lien may be created under this section on any  
28 publicly owned property.

29 (b) A lien under this section attaches when the district files for  
30 recordation in the office of the county recorder a certificate  
31 specifying the amount of the delinquent fees, tolls, rates, rentals,  
32 or other charges together with interest and penalties thereon; the  
33 name of the owner of record of the property to which services were  
34 rendered by the district; and the legal description of the property.  
35 Within 30 days of receipt of payment of all amounts due, including  
36 recordation fees paid by the district, the district shall file for  
37 recordation a release of the lien.

38 (c) In filing any instrument for recordation under this section,  
39 the district shall pay the fees specified in Sections 27361 and  
40 27361.4 of the Government Code.

1 (d) The remedies in this section are in addition to any other  
2 remedy provided by law.

3 (e) This section does not apply to delinquent fees or charges for  
4 the furnishing of electrical service.

5 (f) *Any district that places a lien on a property for water or*  
6 *sewer service pursuant to this section shall submit to the Assembly*  
7 *and Senate Committees on Judiciary, on or before January 1,*  
8 *2013, a report containing all of the following information:*

9 (1) *The total number of liens created under this section for water*  
10 *or sewer service and the total dollar amount of those liens.*

11 (2) *The overall effectiveness of the liens and any problems*  
12 *associated with the use of those liens.*

13 (g) *This section shall remain in effect only until January 1, 2014,*  
14 *and as of that date is repealed, unless a later enacted statute, that*  
15 *is enacted before January 1, 2014, deletes or extends that date.*

16 SEC. 3. *Section 12811.1 is added to the Public Utilities Code,*  
17 *to read:*

18 12811.1. (a) *A district may, by resolution or ordinance, require*  
19 *the owner of record of real property within the district to pay the*  
20 *fees, tolls, rates, rentals, or other charges for services rendered*  
21 *to a lessee, tenant, or subtenant, and those fees, tolls, rates, rentals,*  
22 *and other charges that have become delinquent, together with*  
23 *interest and penalties thereon, are a lien on the property when a*  
24 *certificate is filed in the office of the county recorder pursuant to*  
25 *subdivision (b) and the lien has the force, effect, and priority of a*  
26 *judgment lien. No lien may be created under this section on any*  
27 *publicly owned property.*

28 (b) *A lien under this section attaches when the district files for*  
29 *recordation in the office of the county recorder a certificate*  
30 *specifying the amount of the delinquent fees, tolls, rates, rentals,*  
31 *or other charges together with interest and penalties thereon; the*  
32 *name of the owner of record of the property to which services were*  
33 *rendered by the district; and the legal description of the property.*  
34 *Within 30 days of receipt of payment of all amounts due, including*  
35 *recordation fees paid by the district, the district shall file for*  
36 *recordation a release of the lien.*

37 (c) *In filing any instrument for recordation under this section,*  
38 *the district shall pay the fees specified in Sections 27361 and*  
39 *27361.4 of the Government Code.*

- 1     *(d) The remedies in this section are in addition to any other*  
2     *remedy provided by law.*  
3     *(e) This section does not apply to delinquent fees or charges*  
4     *for the furnishing of water or sewer service to residential property*  
5     *or electrical service.*  
6     *(f) This section shall become operative on January 1, 2014.*

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